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Department of Homeland Security
11

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION
15

16 FRANK JOSEPH CARDERELLA,

17 Plaintiff,

18 v.

19 JANET NAPOLITANO, as Secretary
20 of the Department of Homeland
Security,
21

22 Defendant.
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24
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27
28

No. CV09-8299 R (MANx)

DECLARATION OF AUSA SEKRET T.
SNEED IN SUPPORT OF DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT,
OR, IN THE ALTERNATIVE, MOTION
FOR SUMMARY ADJUDICATION

Date: September 20, 2010

Time: 10:00 a.m.

Ctrm: Spring Street Courthouse
255 East Temple Street, Ctrm 8
Los Angeles, California 90012

[Fed. R. Civ. Proc. 56; Local Rule 56-1]

Honorable Manuel L. Real

1 I, Sekret T. Sneed, declare as follows:

2 1. I am an Assistant United States Attorney for the Central District of
3 California. In the United States Attorney's Office, I have been assigned primary
4 responsibility for representing defendant Janet Napolitano, in her official capacity as
5 Secretary of Department of Homeland Security ("Defendant"), in this action. I have
6 personal knowledge of the matters contained herein, or I have obtained such
7 knowledge from my review of official files and records of the United States Attorney's
8 Office for the Central District of California and the Department of Homeland Security-
9 Immigration and Customs Enforcement, and if called as a witness, I could and would
10 testify competently thereto.

11 2. Attached hereto as Exhibit A are true and correct copies of excerpts from
12 the deposition of plaintiff Frank Joseph Carderella taken on July 21, 2010.

13 3. Attached hereto as Exhibit B is a true and correct copy of the Immigration
14 and Naturalization Service ("INS") Workforce Profile Summary as of March 31, 1997,
15 from the Report of Investigation submitted to INS on December 14, 1998, which
16 Plaintiff admitted was genuine in his Responses to Defendant's First Set of Request for
17 Admission.

18 I declare under penalty of perjury under the laws of the United States of America
19 that the foregoing is true and correct and that this declaration was executed this 17th
20 day of August 2010.

21
22 /s/

23 SEKRET T. SNEED
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EXHIBIT A

CERTIFIED COPY

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

FRANK JOSEPH CARDERELLA,

Plaintiff,

vs.

**JANET NAPOLITANO, as
Secretary of the Department
of Homeland Security,**

Defendant.

CASE NO.: CV09-8299 R(MANx)

**DEPOSITION OF FRANK JOSEPH CARDERELLA
LOS ANGELES, CALIFORNIA
WEDNESDAY, JULY 21, 2010**



**REPORTED BY:
TRULY A. VOSBERG**

CSR NO.: 12656

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FRANK JOSEPH CARDERELLA JULY 21, 2010

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

FRANK JOSEPH CARDERELLA,)
)
Plaintiff,)
)
vs.) CASE NO.: CV09-8299 R(MANx)
)
JANET NAPOLITANO, as)
Secretary of the Department)
of Homeland Security,)
)
Defendant.)
_____)

Deposition of FRANK JOSEPH CARDERELLA, taken on
behalf of Defendant, at 300 North Los Angeles Street,
Room 7516, Los Angeles, California, commencing at 10:03
A.M., Wednesday, July 21, 2010, before TRULY A. VOSBERG,
CSR No. 12656, pursuant to NOTICE.

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 APPEARANCES OF COUNSEL:

2

3 FOR THE PLAINTIFF:

4 GOOD, WILDMAN, HEGNESS & WALLEY

5 5000 Campus Drive

6 Newport Beach, California 92660-2181

7 949/955-1100

8 BY: JOHN A. STILLMAN, ESQUIRE

9

10 FOR THE DEFENDANT:

11 U.S. DEPARTMENT OF JUSTICE

12 UNITED STATES ATTORNEY'S OFFICE

13 300 North Los Angeles Street

14 Room 7516

15 Los Angeles, California 90012

16 213/894-3551

17 BY: SEKRET T. SNEED, ASSISTANT U.S. ATTORNEY

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19

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23

24

25 ALSO PRESENT:

JOSH MELTZER

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 A To take a promotion.

2 Q Was this a covered position? Do you understand
3 what I mean by covered?

4 A Yes, I do.

5 Q Was this a covered position?

6 A Yes, it was.

7 Q Where were you promoted to?

8 A Promoted in-house to case manager.

9 Q What was your annual salary in that job?

10 A I want to say that we were probably around
11 60,000 maybe to start, 60 to 70.

12 Q And you were in the case manager position from
13 February '93 to March '96; is that right?

14 A Yes.

15 Q And did your salary increase during that time?

16 A Yes.

17 Q About what did it increase to?

18 A I want to say maybe 10 to 15,000. I can't
19 remember exactly.

20 Q It went around to 80,000, 90,000?

21 A Not quite that high. It probably stayed around
22 the 75,000 mark, somewhere around there. 70 to 75,000.

23 Q And was this a covered position?

24 A Yes, it was.

25 Q You eventually left the case manager position,

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 A I don't know if I still have a copy. I'd have
2 to dig at home to see if I still have it.

3 Q And since Mr. Graber and Mr. Gassoway and some
4 of the other individuals were with you, they also
5 submitted applications for this position?

6 MR. STILLMAN: Calls for speculation.

7 THE WITNESS: I believe, yes, they also
8 submitted applications.

9 Q BY MS. SNEED: Did you see them hand an
10 application to the personnel officer?

11 A Yes.

12 Q After you submitted your application for the
13 detention enforcement officer in November '95, what
14 happened next in terms of hearing about the job?

15 A I received -- while I was in the academy in
16 Charleston, South Carolina, I had a telephonic interview.

17 Q Do you remember around when this happened?

18 A I want to say around April or May of that year,
19 1996.

20 Q Did anyone contact you to set up the interview?

21 A The only person that contacted me was one of the
22 representatives there for the academy that said, We're
23 going to set you up in a room to do a telephonic
24 interview, if you're still interested in this position.

25 Q Was that the first you heard that you were going

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 to have an interview, when somebody at the academy
2 approached you?

3 A Yes.

4 Q So you then went to this room on a certain date
5 and had the interview; is that correct?

6 A Yes.

7 Q And it was over the telephone?

8 A Yes.

9 Q Do you remember who the interviewers were?

10 A One was Ralph Roldan; and the other person, I
11 believe her name is Denise -- I can't remember Denise's
12 last name right off the top.

13 Q Does Weaver-Lopez sound familiar?

14 A It could be Denise Weaver.

15 Q About how long did the telephone interview last?

16 A I want to say a half hour to 45 minutes.

17 Q Was it an instructor at the Charleston, South
18 Carolina, academy who approached you?

19 A It could be. I don't remember specifically who
20 it was, but they told me about the interview.

21 Q And you said the individual said something along
22 the lines, if you're still interested; is that correct?

23 A Right.

24 Q And what did you say in response to that, if you
25 remember?

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 A I said, Absolutely.

2 Q During that telephonic interview, do you
3 remember what was said?

4 A Basically going over my background up to that
5 point, the time that I'd had in with the government, just
6 basic questions. And the fact that, you know, I was
7 completing IOBTC.

8 Q That's the -- what are those initials again?

9 A It's Immigration Officer's Basic Training
10 Course, which is what you need to become a deportation
11 officer, oddly enough.

12 Q And what did they say to you, if anything, about
13 the job?

14 MR. STILLMAN: Objection. Ambiguous; overbroad.
15 He can answer it, if he understands it.

16 Q BY MS. SNEED: I'll rephrase it.

17 Did they tell you anything about what the job
18 would entail?

19 A Uh-huh.

20 Q What did they say?

21 MR. STILLMAN: Yes?

22 THE WITNESS: Oh, yes, yes.

23 MS. SNEED: I'm glad you're paying attention.

24 THE WITNESS: Basically they explained what the
25 job entitled and if I was aware of what I would be doing,

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 and comparing that to my prior background and what I was
2 doing as an inspector and that sort of thing.

3 And I said, Yes, I'm well aware of what this job
4 entitles (sic). And the reason why I'm applying for this
5 job in the first place, I explained to them because it
6 was a covered position, I'm attempting to get back home
7 to Los Angeles, and I eventually want to become a
8 deportation officer. And that was pretty much everything
9 in a nutshell.

10 Q At that point during the telephonic interview,
11 you were a GS --

12 A 7.

13 Q -- 7. And the detention enforcement officer
14 position was also a GS-7?

15 A I don't know if at that point it might have been
16 an entry level 6. I don't remember exactly. But it was
17 either 6 or 7.

18 Q Did you talk about the GS levels at all with
19 Mr. Roldan or Ms. Weaver?

20 A I don't recall that. We may have. I don't -- I
21 don't know.

22 Q Is there anything else you remember from the
23 phone call?

24 A No. I mean, just the willingness to take this
25 entry-level position, but I just explained to them my

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 motive behind it. And basically after having
2 completed -- I was in the process of already completing
3 the basic academy that you needed to become a deportation
4 officer. So I was willing to -- like I said, two reasons
5 basically: For the promotion aspect later on, and to get
6 away from the border and back to Los Angeles where I was
7 still living.

8 Q How did the call end? I'll rephrase it.

9 What did Ms. Weaver and Mr. Roldan say to you
10 about when you would hear about the results of the
11 interview?

12 A I don't recall anything to that. They didn't
13 give me any time frames or anything. They just asked me
14 if I had any more questions, and we ended it there. It
15 was -- that was it.

16 Q Did you get any sort of sense from them if you
17 had done well in the interview?

18 A Yes, I did.

19 Q What gave you that sense?

20 A I think Mr. Roldan pretty much said it. Just
21 looking at my background, and that he felt that I was
22 overly qualified for this position.

23 Q Did either Mr. Roldan or Ms. Weaver -- or Denise
24 give you an offer for the position?

25 A No, no. No, they didn't.

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 Q Did you believe that you would get the position
2 of the detention enforcement officer?

3 A Yes, I did.

4 Q Why did you believe that?

5 A Because for an entry-level position, and already
6 knowing what I had completed with the government, GS
7 level, education, taking various things into
8 consideration, you're basically competing for a -- it's
9 not the same as competing as a deportation officer for a
10 supervisory deportation officer. It's like a deportation
11 officer competing for an immigration enforcement officer
12 position. It's like taking a step backwards.

13 Kind of like have you ever heard the statement,
14 you have to take a step backward before you can go
15 forward? So -- but I felt confident because I knew a lot
16 of the people that were competing for this position, and
17 I knew their backgrounds.

18 Q How many people did you know that were competing
19 for the position?

20 A Well, they hired, I think, at least 25 people.

21 Q What do you base that on? How do you know that
22 they hired 25 people?

23 A That's what personnel told me.

24 Q When you submitted your résumé -- your
25 application?

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 A SF 171, they said at that time there were at
2 least 25 openings.

3 Q So I think I interrupted you. You were saying
4 that there were at least 25 positions.

5 A That's what they were -- whether it was that
6 exact number, I don't know if it turned out that, but
7 that's what they said originally, that they were trying
8 to take on at least 25 people.

9 Q And did you know any of the other people that
10 were applying for the 25 spots?

11 A At that time, apart from the people that I was
12 working with at the BOP, no.

13 Q And of the people at the BOP who you went to
14 the -- I'm assuming you're talking about the people at
15 the BOP who you went to the personnel office with?

16 A Yes.

17 Q How many people total went to the personnel
18 office to submit their applications?

19 A I think there were just two of us, two or three
20 of us.

21 Q You, Mr. Gassoway, and Mr. Graber?

22 A Yes.

23 Q What were the -- what's the background of
24 Mr. Gassoway? Let me rephrase that.

25 How did you know that your qualifications were

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 superior to his?

2 A To Mr. Gassoway's?

3 Q Yes.

4 MR. STILLMAN: I don't know if he ever said
5 that.

6 MS. SNEED: Let me back up.

7 Q BY MS. SNEED: There were 25 openings for this
8 position. That's what you were told, correct?

9 A Yes.

10 Q And besides yourself, you were aware of two
11 other people who applied for the job?

12 A Yes.

13 Q And I believe my original question was did you
14 believe that you would be selected, and you said yes.

15 A Yes.

16 Q Because you knew the other people who had
17 applied, correct?

18 A Yes.

19 Q So the only other people you knew who had
20 applied were Mr. Gassoway and Mr. Graber, correct?

21 A But let me rephrase that.

22 I knew at the time of the interview that I would
23 be because at that point in time, you would not find
24 anybody -- and I'll go so far as to say this -- you
25 wouldn't find anybody in the L.A. office that had just

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 completed the IOBTC and my background with the
2 government. And if you -- I'll leave it at that.

3 Q Was the vacancy, the 25 positions for the
4 detention enforcement officer, limited to the L.A.
5 office?

6 A I don't know.

7 Q Was there anything in the vacancy that said only
8 employees in the L.A. office could apply for this
9 position?

10 A I don't -- I wouldn't know.

11 Q Did you know Mr. Graber's -- what his
12 qualifications would have been for the detention
13 enforcement officer?

14 A Yes, I think from working with him at the Bureau
15 of Prisons, yeah.

16 Q What were his -- and you believed your
17 qualifications were equal to or superior to his?

18 A Uh-huh.

19 MR. STILLMAN: Yes?

20 THE WITNESS: I'm sorry, yes.

21 Q BY MS. SNEED: What about Mr. Gassoway?

22 A Yes.

23 Q Your qualifications were equal to or superior to
24 his?

25 A Yes.

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 was above you; is that correct?

2 A No.

3 Q No? What was your GS level at the BOP when you
4 were a case manager?

5 A 11.

6 Q After you had your telephonic interview in March
7 '96, I believe -- or April or May '96, excuse me, did you
8 talk to either Mr. Graber or Mr. Gassoway?

9 A No.

10 Q Did you ever talk to either individual about the
11 position after the three of you applied?

12 A No, no.

13 Q And eventually you came to learn that you had
14 not been selected for the detention enforcement officer
15 position, correct?

16 A Yes.

17 Q Do you remember around when you found that out?

18 A I want to say either September or October of
19 '96.

20 Q How did you learn you had not been selected?

21 A I inquired through the personnel office here.

22 Q You spoke to an individual?

23 A Yes.

24 Q Do you remember who that was?

25 A No, I don't.

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 Q And what did this person tell you?

2 A Basically that I didn't -- I was not selected.

3 Q Did the two of you talk about anything else?

4 A I had asked her why I didn't receive any
5 notification in the mail or anything, or how come no one
6 had contacted me.

7 Q And what did he or she say?

8 A She says that, We don't always do that. We
9 don't always make it a point to let the applicants know.

10 Q Did she tell you when the decision had been
11 made?

12 A No.

13 Q Did you ever find out when the decision for your
14 non selection had been made?

15 A No, I never did.

16 Q Was it just the two of you, you and the person
17 in the personnel office, at this conversation?

18 A Uh-huh -- yes.

19 Q Did you ask her anything about who had been
20 hired for that position?

21 A No.

22 Q And at the time you found out about the non
23 selection, you were an immigration inspector, correct?

24 A Yes.

25 Q While you were an immigration inspector, were

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 Q While you were a case manager?

2 A Yes.

3 Q When did you apply for the immigration inspector
4 position?

5 A Sometime during 1995.

6 Q After you found out that you had not been
7 selected for the detention enforcement officer position,
8 what did you do?

9 A I talked to an EEO representative, counselor.

10 Q How long after you had found out?

11 A Shortly after. I don't remember exactly, but it
12 was -- I think it was within the 45-day time frame that
13 they give us.

14 Q Do you remember the EEO counselor's name?

15 A He was a border patrol agent working down at San
16 Ysidro, and I don't remember right off the top of my head
17 now.

18 Q What did you tell the EEO counselor?

19 A Basically that I wanted to file a discrimination
20 complaint based on non selection.

21 Q How do you think you've been discriminated
22 against? What did you tell the EEO counselor that were
23 the reasons you were discriminated against?

24 A Well, I thought based on my qualifications and
25 the fact of the hiring practices that I was aware of that

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 looked (sic) during the selection
2 process and discriminated against in
3 the following categories: Race
4 (white) religion (Catholic); sex
5 (male); national origin (Italian); and
6 other (experience/qualifications).

7 What facts do you have that would support your
8 feeling that you were deliberately overlooked?

9 A The facts that I would have would basically be
10 in comparison to everyone's applications, the
11 information, I guess, that existed -- or the hearsay,
12 however you want to put it -- going around the office of
13 who submitted applications through who, whatever person.
14 The selection process that the people doing the selecting
15 in Los Angeles at that time that were responsible for
16 making the selections and the reputations that were going
17 around with these individuals as well.

18 Q You said -- I believe the first thing you said
19 was everyone's application?

20 A The individuals that were eventually selected, I
21 guess I should say.

22 Q Did you ever find out what was on the
23 applications of all the individuals that were selected
24 for the DEO position?

25 A No, I didn't.

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 Q You never saw anyone's application; is that
2 correct?

3 A No, I didn't.

4 Q No, you did not see anyone's application?

5 A No, I did not see any applications.

6 Q And you said the reputations of the individuals
7 making the decisions. I may be paraphrasing a little
8 bit. Who specifically are you talking about?

9 A Whoever was within the upper echelon at that
10 time in Los Angeles.

11 Q Do you remember their names?

12 A No, not exactly. I mean, I don't know who
13 exactly was responsible for the hiring at that point, if
14 it was the district director, the assistant.

15 Q And you said their reputations. What were their
16 reputations?

17 A Unfortunately, our office has a bad reputation
18 to this day of their hiring practices.

19 Q But it sounded like you specifically were
20 talking about specific individuals' reputations. Is that
21 correct?

22 A The individuals that were -- like I said, the
23 upper echelon at that time period. I don't know who
24 specifically was responsible for making the decision on
25 this particular announcement. Sometimes it may be the

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 assistant field office director; sometimes it could be
2 someone else. I don't know specifically.

3 Q What was the reputation?

4 A Of hiring based on who they know.

5 Q But you don't know who hired -- who was the
6 deciding official for the DEO position that you applied
7 for, correct?

8 A No, only speculation.

9 Q Who do you think was responsible for the -- for
10 your specific non selection for the DEO position?

11 A Who do I think?

12 Q Yes.

13 A Could have been Beverly Wilson.

14 Q And had you ever met Beverly Wilson?

15 MR. STILLMAN: As of that time?

16 MS. SNEED: Yes.

17 THE WITNESS: No.

18 Q BY MS. SNEED: Have you met Ms. Wilson at any
19 time?

20 A Uh-huh, before she retired.

21 Q When did you first meet Ms. Wilson?

22 A I don't remember.

23 Q Do you remember what position you held at that
24 point or where you were stationed?

25 A It had to have been when I was at San Pedro

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 after 1997.

2 Q And when you speak about the reputation of the
3 L.A. field office, are you referring to the reputation
4 then when you were applying for and not selected for the
5 DEO position, or now?

6 A Unfortunately, this has been an ongoing thing.
7 This is something that -- I mean, if we took a poll right
8 now with everyone, you would not want to hear what, I'm
9 sure, what most people have to say about the reputation
10 for hiring people and promotions within the office. It's
11 widely known and disturbing, and it continues to this
12 day. I've seen it happen again recently. I mean, it's
13 embarrassing.

14 Q Had you heard anything specifically about
15 Ms. Wilson's reputation? And I'm talking about when you
16 were talking to individuals about who had been selected
17 for the DEO position.

18 A Yes, I have.

19 Q What did you hear about her reputation?

20 A It's embarrassing. Having the habit of hiring
21 people that they know.

22 Q Do you know if Ms. Wilson knew any of the
23 individuals that were selected for the DEO position that
24 you applied for?

25 A No, I don't.

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 eventually hired as DEO?

2 A Not just them. It goes around. It's widely
3 known. Like I said, I could take you out right now and
4 we could talk to a number of individuals right here on
5 the seventh floor about people that were just recently
6 hired. I mean, it's widely known. It's not something
7 that you think somebody would go out of their way to keep
8 quiet about.

9 Q But as far as you know, for the specific DEO
10 vacancy that you applied for, that didn't happen?

11 A I'm saying it did happen.

12 Q I'm sorry, I misstated your testimony. As far
13 as you know, you have no information that proves that's
14 what happened with the individuals who eventually were
15 hired as DEOs?

16 A I don't think if I went up to one of the
17 supervisors at San Pedro at that time and said, Hey, did
18 you pull this individual in because you know them? I
19 don't think they would come back and say, Yes, I did; I
20 recommended them over you.

21 MS. SNEED: Could you read back my question
22 before his response, please.

23 (The last question was read by the reporter.)

24 Q BY MS. SNEED: Do you have any information that
25 any supervisors or anyone else spoke to Ms. Wilson about

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 hiring individuals for the DEO position that you applied
2 for?

3 A No, not --

4 MR. STILLMAN: Asked and answered. But he can
5 answer it again.

6 THE WITNESS: No, I don't. I don't
7 specifically.

8 Q BY MS. SNEED: And I believe you said you
9 never -- the first time you met Ms. Wilson was in '97,
10 correct?

11 MR. STILLMAN: No, he said it was after.

12 THE WITNESS: It would have been after 1997.

13 Q BY MS. SNEED: And what leads you to believe
14 that Ms. Wilson was the deciding official for the DEO
15 vacancies that you applied for?

16 A I only believe -- I can only believe at that
17 time I think she had a lot to do with the hiring. I
18 don't know specifically if she was in on every
19 announcement, selection process. I don't know if she's
20 involved with all of them. That's why I said originally
21 if she was the one who specifically did the hiring.

22 Q Do you think that she did the -- that she may
23 have been the deciding official because of her position
24 at the time?

25 A She could have been, uh-huh. I don't know. I

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 don't know if she was the deciding official or not.

2 Q Now strictly speaking about the time period
3 between when you applied for the DEO position and when
4 you found out you weren't selected, do you have any
5 information that Ms. Wilson knew you were white?

6 A No.

7 Q Same period, do you have any information that
8 Ms. Wilson knew you were Catholic?

9 A Let me rephrase that now. Are you talking --
10 this is after the interview?

11 Q Yes, strictly from the time you first applied
12 for the DEO position to when you found out you weren't
13 selected.

14 A Sure -- well, if she was the selecting official,
15 sure she would. She was -- she would have had to have
16 reviewed my application to see -- hopefully she reviewed
17 my application, whoever reviewed it would know my
18 background.

19 Q Was there somewhere on the application for the
20 DEO position that asked you your race?

21 A I don't remember back in the day, but the 171
22 form, it might have been.

23 Q What's the 171 form?

24 A That's the old government application. They
25 used to call it the GS-171 -- I'm sorry, SF-171.

FRANK JOSEPH CARDERELLA JULY 21, 2010

1 Q And at least in Exhibit 4, you believe the
2 reasons they didn't hire you was for race, national
3 origin, religion, and gender.

4 MR. STILLMAN: And/or.

5 MS. SNEED: And/or gender.

6 Q BY MS. SNEED: So what leads you to believe
7 that?

8 A Well, in addition to that at this point in
9 trying to determine how they would know -- in regards to
10 talking about the application and knowing is there
11 anything pertaining to race, origin, you know, sex, if
12 they didn't know my background at that point after
13 already being employed with the agency, there must be
14 something missing here, especially since I just finished
15 the academy. I find it hard to know they didn't know
16 everything about my background.

17 Q At the time of the interview, you were -- you
18 had just joined INS, correct?

19 A No. I had just completed the academy.

20 Q Well, you started as an immigration inspector in
21 March '96, correct?

22 A Yes, I did.

23 Q And the telephonic interview was April, May '96,
24 correct?

25 A Somewhere around that time period.

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1 quotas -- it was more important to meet quotas than it
2 was to hire the best qualified applicant type of thing.

3 Q And by quotas, quotas of what types of people?

4 A Just basically a different -- different ethnic
5 groups.

6 Q And when you say it was going around, was this
7 an official statement that was put out by INS?

8 A No.

9 Q So going around, this was office gossip?

10 A Gossip based on facts. I think if you break
11 down and you probably go down and look at how many
12 people, just go back over the hiring to see who exactly
13 had been hired, and you break down their backgrounds.

14 Q What backgrounds do you think were hired under
15 the policy to maintain fairness to different groups?

16 A Oh, I don't know. That would just be
17 speculation. I think it's safe to say that the majority
18 of the people in this agency are probably Hispanic or
19 black. I don't know exactly, but there's a great
20 majority of Hispanics working in Los Angeles.

21 Q So is that what you're referring to by specific
22 groups of people, Latinos?

23 A No, no one specifically. I'm not going to go
24 that far as to say anyone specifically, but it's just a
25 known fact that if you look at it and break it down of

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1 who is working here, the majority is Hispanic.

2 Q I'm just looking at what you wrote here -- you
3 probably didn't write it, but what's in your affidavit.
4 And according to your affidavit, you weren't selected
5 because you believe the agency wanted to hire specific
6 groups of people; is that correct?

7 A I just think that these specific groups of
8 people just happen to fall into certain categories of
9 Hispanic or people that they -- that just happened to be
10 at that spot at that time that they were pulling in. It
11 wouldn't have mattered basically if they were Hispanic or
12 black. The favoritism is just knowing the person, and if
13 they just happen to be Hispanic then they were Hispanic.
14 But I don't know the break down of these individuals that
15 were hired because they wouldn't give that information
16 out. I could only go by what I saw later on as far as
17 the DEOs that were working in Los Angeles.

18 MS. SNEED: Could you read my question, please?

19 (The last question was read by the reporter.)

20 Q BY MS. SNEED: I don't believe your answer quite
21 responded to that question. So I'll ask it again.

22 Do you need the court reporter to read it again?

23 A I don't think it's a matter we're saying what
24 the agency wants. I think it's based on what some
25 individuals here in Los Angeles were doing as far as who

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1 page?

2 A It appears to be my signature.

3 MR. STILLMAN: On page 2?

4 MS. SNEED: On page 2, yes.

5 Q BY MS. SNEED: And are those your initials on
6 the bottom right of the first and second pages?

7 A Yes, they appear to be.

8 Q And if you look at the second page, the full
9 question and answer on the second page, could you read
10 those to yourself and let me know when you're finished.

11 A Uh-huh.

12 Q And if you see in the middle of the last
13 paragraph that's the answer, it's marked with an A, it
14 says, quote:

15 They were hiring GS-5 Correctional
16 Officers and people off the street
17 over me and Lt. Gassoway, end quote.

18 Do you know who the specific GS-5 correctional
19 officers were?

20 A No.

21 Q And do you know who the specific people off the
22 street were?

23 MR. STILLMAN: What do you mean by off the
24 street? Their names?

25 MS. SNEED: I don't know what he means by off

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1 the street. Yes, does he know the identities of the
2 people who he terms as off the street.

3 THE WITNESS: I guess I was just referring to
4 nongovernment employees coming in with absolutely no
5 experience type of thing.

6 Q BY MS. SNEED: And do you know the identities of
7 any of those people who came in with no government
8 experience?

9 A I don't know their identities, but --

10 Q You were saying but?

11 A But there were some that were hired according to
12 what I came to understand later on.

13 Q And do you know any background information about
14 the GS-5 correctional officers? And when I say
15 background information, I mean race, national origin,
16 religion, or sex.

17 A No.

18 Q What about the people off the street? Do you
19 know any of their background information, using the same
20 information for background information?

21 A No.

22 Q And then the last sentence, looking at the same
23 paragraph on Exhibit 6, says something went wrong
24 somewhere -- I'm sorry, quote:

25 Something went wrong somewhere,

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1 Q BY MS. SNEED: Let me clarify.

2 Were there a large number -- were there
3 Hispanics that were selected for the DEO position that
4 you applied for?

5 A Couldn't tell you how many because they wouldn't
6 give me the information.

7 Q And where did you -- did you ever have -- do you
8 have any other information that you were not selected for
9 the position because of your race?

10 A Any other information? No.

11 Q And do you think that you weren't selected for
12 the DEO position because of your national origin?

13 A I think that's part of it.

14 Q What do you mean by that?

15 A I mean, I basically wasn't selected because
16 somebody else filled a spot because of someone that they
17 knew. Another person was selected over me based on
18 somebody pulling the person in.

19 Q And was that based on your national origin?

20 A Could have part to do with it.

21 Q And what are the other parts?

22 A What I just said, that because they basically
23 are playing favoritism on who they know and they're
24 pulling in.

25 Q And who is they? You said they were playing

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1 favoritism.

2 A The people that I mentioned to you before, the
3 upper echelon in Los Angeles at that time.

4 Q And do you think you were not selected for the
5 DEO position because of your religion?

6 A I wouldn't know for certain, no.

7 Q Do you think you were not selected for the DEO
8 position because of your sex?

9 A No, no, it was not due to my sex.

10 Q Let me rephrase. I think that was a double
11 negative.

12 A Unless they're trying once again to fill quotas
13 that what was rumored at that time, then I'd have to
14 believe, yeah. But I don't know if females were hired,
15 how many, I don't know.

16 Q Do you believe that your sex caused you not to
17 be selected for the DEO position?

18 A No.

19 Q No, you do not believe that?

20 A I don't believe it was because of my sex.

21 Q How were you damaged by the non selection?

22 A It's affected -- it's pushed my career back;
23 it's affected by retirement.

24 Q What do you mean by pushed your career back?

25 A Starting from scratch, by the time -- the time

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I, TRULY A. VOSBERG, CSR No. 12656, Certified
Shorthand Reporter for the State of California, do hereby
certify:

That the deponent, FRANK JOSEPH CARDERELLA, named in
the foregoing deposition, prior to being examined, was by
me first duly sworn/affirmed to testify to the truth, the
whole truth and nothing but the truth.

That said deposition was taken before me at the time
and place therein stated and was thereafter transcribed
into print under my direction and supervision. And I
hereby further certify that the foregoing deposition is a
full, true and correct transcript of my shorthand notes
so taken.

I further certify that I am not of counsel nor
attorney for either of the parties hereto or in any way
interested in the event of this case and that I am not
related to either of the parties hereto.

WITNESS my hand this 23rd day of July, 2010.

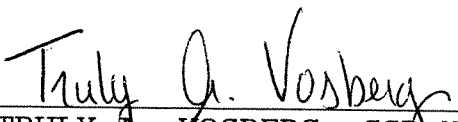

TRULY A. VOSBERG, CSR NO. 12656

EXHIBIT B

**WORKFORCE PROFILE SUMMARY
DEPARTMENT OF JUSTICE - INS
LOS ANGELES DISTRICT**

Detention and Deportation Branch

As of 31 March 1997

All employees are GS-1802 Detention Enforcement Officers

By Race/National Origin and Sex

| <u>Grade</u> | <u>Caucasian</u> | <u>Black</u> | <u>Hispanic</u> | <u>Asian</u> | <u>Male</u> | <u>Female</u> |
|---------------------|-------------------------|---------------------|------------------------|---------------------|--------------------|----------------------|
| GS-4 | 10 | 2 | 0 | 0 | 10 | 2 |
| GS-5 | 3 | 0 | 2 | 1 | 4 | 2 |
| GS-6 | 2 | 1 | 4 | 0 | 5 | 2 |
| GS-7 | 17 | 14 | 21 | 6 | 56 | 2 |
| TOTALS | 32 | 17 | 27 | 7 | 75 | 8 |